

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**June 9, 2009**

DIVISION ONE

B205877 People (Not for Publication)  
v.  
Pierce

The judgment is reversed.

Rothschild, J.

We concur:   Mallano, P.J.  
                    Tucker, J. (Assigned)

B203936 Vera (Not for Publication)  
v.  
Century 21 Masters Realty, et al.

The judgment is reversed as to Century 21 Masters Realty and Stewart Title of California and the cause is remanded to the trial court with directions to afford the plaintiff an opportunity to amend his complaint as to those defendants. Plaintiff is awarded his costs on appeal as to Century 21 and Stewart Title.

Rothschild, J.

We concur:   Mallano, P.J.  
                      Ferns, J. (Assigned)

B208257 Bolgar  
v.  
Harris Properties, Inc., et al.

Filed order denying petition for rehearing.

## DIVISION ONE (continued)

B206066 Paul Oravec  
v.  
New York Life Insurance

Filed order certifying opinion for publication.

DIVISION TWO

B198897 People (Not for Publication)  
v.  
Jaimez, et al.

The judgments are affirmed with directions. After the remittur issues, the superior court shall cause its clerk to amend Salinas's abstract of judgment with respect to count 2, attempted murder, insofar as it reflects that the jury found true a discharge of a firearm enhancement pursuant to section 12022.53, subdivision (d), in lieu of the proper true finding in count 2 of the discharge of a firearm pursuant to section 12022.53, subdivision (c).

Doi Todd, Acting P.J.

We concur: Ashmann-Gerst, J.  
Chavez, J.

B207264      Mercury Plastics Inc.      (Not for Publication)  
v.  
Rabchev, et al.

The judgment is affirmed to the extent it establishes liability against Rabchev and Nakaoka for breach of fiduciary duty. The judgment is reversed as to Infinity. The judgment is also reversed as to damages, and the matter is remanded for a new trial on the issue of compensatory and punitive damages. The parties to bear their own costs on appeal.

Doi Todd, J.

We concur:   Boren, P.J.  
                      Chavez, J.

## DIVISION TWO (continued)

[illegible]

To the extent the judgment reflects the jury verdict, it is affirmed. The trial court's denial of appellant's motion for a new trial is likewise affirmed. The trial court's orders denying the imposition of a constructive trust and granting Susie's motion to tax costs are reversed with directions to the trial court to fashion an appropriate equitable remedy on the basis of the evidence adduced at trial and to exercise its discretion in determining whether appellant is a prevailing party entitled to costs. Each side to bear their own costs on appeal.

Doi Todd, J.

We concur:   Boren, P.J.  
                      Chavez, J.

B205710 Cannon (Not for Publication)  
v.  
Bettinger, et al.

The judgment of dismissal is affirmed. Respondents are entitled to recover their costs on appeal.

Doi Todd, Acting P.J.

We concur: Ashmann-Gerst, J.  
Chavez, J.

June 9, 2009 (Continued)

## DIVISION TWO (continued)

[illegible]

The judgment is affirmed. Respondent(s) to recover costs.

Doi Todd, J.

We concur: Boren, P.J.  
Ashmann-Gerst, J.

B191020 Cherry et al. (Not for Publication)  
v.  
3075 Wilshire Blvd. et al.

The judgments are affirmed. Each party to bear their own costs.

Doi Todd, Acting P.J.

We concur: Ashmann-Gerst, J.  
Chavez, J.

### DIVISION THREE

Court convened at 9:30 a.m.

Present: Klein, P.J., Croskey, J., Aldrich, J. and Valorie Gray, Deputy Clerk.

Each of the following:

B207138 People v. Murphy  
B205329 People v. Oquendo  
B211379 People v. Adame  
B210345 De La Torre, et al. v. Stone  
B210466 Buycks v. California Unemployment Insurance Appeals Board

Argument waived, cause submitted.

DIVISION THREE (continued)

B208919     People  
              v.  
              Gallagher

Merits:

Argued by Anthony Daniel Zinnanti for appellant and by Julie A. Harris, deputy attorney general for respondent. Cause submitted.

B200408     People  
              v.  
              Sizemore

Merits:

Argued by Fay Arfa for appellant and by Stephanie C. Brennan, deputy attorney general for respondent. Cause submitted.

B208691     County of Los Angeles  
              v.  
              Indiana Lumbersmens Mutual Insurance Company

Merits:

Argued by E. Alan Nunez for appellant, by Robert Tomlin White for amicus curiae and by Jason C. Carnevale, deputy county counsel for respondent. Cause submitted.

B204911     Carrera, et al.  
              v.  
              Maurice J. Sopp & Son, et al.

Merits:

Argued by Rebecca Davis-Stein and Christian F. Pereira for appellants and by Jason Litt for respondents. Cause submitted.

Court recessed.

DIVISION THREE (continued)

Court reconvened at 1:30 p.m.

Present: Klein, P.J., Croskey, J., Kitching, J., Aldrich, J. and Valorie Gray, Deputy Clerk.

Each of the following:

B212171 Children and Family Services v. C.D.

B207121 People v. Riley

B208297 People v. Armogida

B211254 People v. Angola

B205045 Paris v. USI of Southern California Insurance Services, Inc., et al.

B211884 Children and Family Services v. D.S., et al.

B208425 People v. R.P.

Argument waived, cause submitted.

B204571     People  
              v.  
              Strider

Merits:

Argued by Jason Buccat for appellant and by Douglas L. Wilson, deputy attorney general for respondent. Cause submitted.

B208769     Buica  
              v.  
              Talent Ventures of California, Inc. dba TVI Actors Studio, et al.

Merits:

Argued by Nate G. Kraut for appellants and by Marshall A. Lerner for respondents. Cause submitted.

DIVISION THREE (continued)

B207288      Tracfone Wireless, Inc.  
                 v.  
                 City of Los Angeles

Merits:

Argued by Robert R. Gunning for appellant and by Sandra J. Levin for respondent. Cause submitted.

B209913      Sturgeon  
                 v.  
                 Bratton, et al.

Merits:

Argued by Paul J. Orfanedes for appellant and by Paul L. Winnemore, deputy city attorney and Hector O. Villagra for respondents. Cause submitted.

Court adjourned.

DIVISION FIVE

B211012      Los Angeles County, D.C.F.S.      (Not for Publication)  
                 v.  
                 L.T.  
                 In re E.T., a Person Coming Under the Juvenile Court Law

The judgment is affirmed.

Kriegler, J.

We concur:    Armstrong, Acting P.J.  
                 Mosk, J.

## DIVISION FIVE (continued)

B206855      People                                  (Not for Publication)  
v.  
Richard Anthony Robles

The matter is remanded to the trial court to strike or impose the section 667.5 enhancement based on appellant's conviction in case number KA035613 and to strike the section 667.5 enhancement based on his conviction in case number KA055915. The clerk of the superior court is instructed to prepare an amended abstract of judgment reflecting the trial court's action on this issue and to deliver a copy to the Department of Corrections and Rehabilitation. The judgment is affirmed in all other respects.

Armstrong, J.

We concur:   Turner, P.J.  
                      Mosk, J.

B206450      People                          (Not for Publication)  
v.  
J.A.

The appeal is dismissed as moot.

Mosk, J.

We concur:   Turner, P.J.  
                          Kriegler, J.

B200830 Allsale Electric, Inc.  
v.  
Cam Painting

Filed order denying petition for rehearing.



DIVISION SEVEN

B203348      People                                  (Not for Publication)  
v.  
Newcomb et al.

The judgment is affirmed.

Woods, Acting P.J.

I concur: Jackson, J.  
I dissent: Zelon, J. (Opinion)

B208822      Los Angeles County, D.C.S.      (Not for Publication)  
v.  
D.M. and D.S.

The portion of the juvenile court's custody and visitation order that permits Mother to reside in the same home as K.S. and to have supervised, overnight visitation with the child is reversed. The matter is remanded to the juvenile court with instructions to issue a new visitation order prohibiting Mother from living in, or spending the night at, the family residence absent a finding that K.S. will not be endangered by unmonitored contact with Mother.

Zelon, J.

We concur: Perluss, P.J.  
Woods, J.

B207756      Arnush      (Not for Publication)  
v.  
Rhoten, et al.

The judgment is reversed and remanded. Arnush is to recover his costs on appeal.

Perluss, P.J.

We concur:   Zelon, J.  
                      Jackson, J.

## DIVISION SEVEN (continued)

B200774      Ittella International, Inc.  
v.  
Pacific American Fish Co., Inc.

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

## DIVISION EIGHT

B210582      In re J.S.      (Not for Publication)  
 Los Angeles County, D.C.F.S.  
 v.  
 B.S.

The judgment is affirmed.

Rubin, Acting P.J.

We concur: Flier, J.  
Bauer, J. (Assigned)

B205703 People (Not for Publication)  
v.  
Hernandez

The judgment is affirmed.

Rubin, Acting P.J.

We concur: Flier, J.  
Bigelow, J.

## DIVISION EIGHT (continued)

[illegible]

The judgment is affirmed.

Rubin, Acting P.J.

We concur: Flier, J.  
Bauer, J. (Assigned)

B206865      Cesaro      (Not for Publication)  
v.  
Quinn Emanuel Urquhart Oliver & Hedges

The judgment is affirmed. Respondent(s) to recover costs.

Flier, J.

We concur: Rubin, Acting P.J.  
Bauer, J. (Assigned)

[illegible]

The judgment is affirmed, and the clerk of the superior court is directed upon remand to correct the minute order of September 23, 2008, by striking the erroneous reference to section 667.5, subdivision (b).

Flier, J.

We concur: Rubin, Acting P.J.  
Bauer, J. (Assigned)

DIVISION EIGHT (continued)

B210629      Haro      (Certified for Publication)  
v.  
City of Rosemead

The appeals from the orders denying class action certification and denying leave to amend the complaint are dismissed. Respondent is to recover its costs in these appellate proceedings.

Flier, J.

We concur: Rubin, Acting P.J.  
Bauer, J. (Assigned)

B205551      People      (Not for Publication)  
v.  
Lambert

The convictions are affirmed. Lambert's sentence is vacated and the cause is remanded to the trial court with directions to resentence Lambert in a manner consistent with this opinion.

Bigelow, J.

We concur: Flier, Acting P.J.  
Bauer, J. (Assigned)

B211384      In re K.P.      (Not for Publication)  
Los Angeles County, D.C.F.S.  
v.  
M.A.

The juvenile dependency court's orders are affirmed.

Bigelow, J.

We concur: Flier, Acting P.J.  
Bauer, J. (Assigned)

## DIVISION EIGHT (continued)

[illegible]

The judgment is affirmed.

Bauer, J. (Assigned)

We concur: Flier, Acting P.J.  
Bigelow, J.

B209262      In re D.S.      (Not for Publication)  
 Los Angeles County, D.C.F.S.  
 v.  
 R.S.

The jurisdictional and dispositional orders are affirmed.

Bauer, J. (Assigned)

We concur: Rubin, Acting P.J.  
Flier, J.

B202478      Wurm  
v.  
California Institute of Technology

Filed order denying petition for rehearing.